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March 17, 2009

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BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Rural Cellular Association Petition for Rulemaking Regarding Exclusivity
Arrangements Between Commercial Carriers and Handset Manufacturers
RM-11497

Dear Ms. Dortch:

MetroPCS Communications, Inc. ("MetroPCS") respectfully submits this *ex parte* letter, and the attached article entitled *By the Numbers*,¹ to supplement the record in RM-11497.

This information in *By the Numbers* illuminates the fact that nine of the top ten most popular handsets in the United States for the month of December sold by AT&T, Verizon Wireless, Sprint and T-Mobile (collectively, the "Big-4") in their retail stores are subject to exclusivity arrangements.² Of these ten most popular handsets, two are distributed exclusively by T-Mobile, two by AT&T, two by Sprint Nextel and four by Verizon Wireless. The tenth handset is not subject to an exclusivity deal. This article demonstrates the increasing prevalence of exclusivity arrangements with the Big 4 and the popularity of the handsets subject to exclusivity.

MetroPCS already has shown in its reply comments how the newest and most popular mobile units drive new customer activation.³ The latest data confirms the tremendous impact of new handset models in attracting new customers. For instance, AT&T recently reported that 40 percent of activations of the new iPhone 3G were for customers new to AT&T.⁴ The BlackBerry Storm drew an even larger percentage of customers new to

¹ "By the Numbers: Top 10 Most Popular U.S. Handsets in December," Beckman, Kristen, *RCR Wireless*, Feb. 24, 2009 ("*By the Numbers*").

² *Id.*

³ *Id.* at 14-16.

⁴ *AT&T Reports Fourth-Quarter and Full-Year Results Highlighted by Robust Wireless Data Growth, Accelerated U-verse TV Ramp, Continued Double-Digit Growth in IP Data Services*, Press Release, Jan. 28, 2009, available at

Marlene H. Dortch

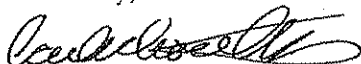
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Verizon Wireless, with early estimates indicating that new customers accounted for approximately 75 percent of Storm activations.⁵ These activations demonstrate the market power that having exclusive handset deals confer. If a new prospect can go to only one carrier to get a particular handset, competition is foreclosed. Allowing the Big-4 to lock up the newest and most advanced handsets – handsets which generate large numbers of new customer activations – enables the Big-4 to extend their already dominant market power in wireless services into the handset sector and to accelerate the increasing competitive imbalance in the industry. While the Big-4 reap great rewards, consumers end up paying the price in the form of reduced competition in the market for wireless services and wireless handsets.

In sum, the article *By the Numbers* further illustrates the need for prompt Commission action to institute a rulemaking proceeding to investigate fully the impact of exclusive handset agreements on the market for wireless services.

Sincerely,



Carl W. Northrop
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

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<http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=26502> (last visited Feb. 15, 2009).

⁵ *Verizon, RIM pleased with BlackBerry Storm Sales*, Goldstein, Phil, *FierceWireless*, Dec. 19, 2008, available at http://www.fiercewireless.com/story/rim-verizon-pleased-blackberry-storm-sales/2008-12-19?utm_medium=rss&utm_source=rss&cmp-id=OTC-RSS-FW0 (last visited Feb. 15, 2009).



By the numbers: Top 10 most popular U.S. handsets in December

[Kristen Beckman](#)

Story posted: February 24, 2009 - 5:59 am ET

Editor's Note: The following lists ranks the 10 most popular handsets in the United States for the month of December. Rankings were provided by AvianResearch L.L.C.

The firm derives its ranking via its Monthly Retail Store Survey, which is based on responses from 100 service representatives and store managers at retail stores of the four major U.S. wireless carriers (AT&T Mobility, Verizon Wireless, Sprint Nextel Corp. and T-Mobile USA Inc.). The survey is designed to be reflective of the U.S. wireless market from both a carrier market share and geographic standpoint. Collectively, AvianResearch said the four largest carriers represent 85% of the U.S. wireless market on a subscriber basis.


This list does not reflect actual sales statistics. Such numbers are not released by handset makers or carriers. Thus, this list is only an indication of subjective popularity.







For the purposes of this list, RCR Wireless News has added carrier information beyond the four largest carriers surveyed by Avian.


As it has for the past several months, Research In Motion Ltd. continues to hold the top spot on the ranking. The company's Blackberry Curve models have dominated the list every month since May of 2008. The company also holds two other spots on the list with its BlackBerry Storm holding its No. 3 spot and the BlackBerry Bold falling one notch to No. 6 from No. 5 where it was ranked in November.

New to the list this month was Samsung's Rant model, which is available at Sprint Nextel. Dropping off the list for December was the HTC Touch Pro, which ranked 7th in November.

This list differs from [other recently published lists](#) due to different tabulation methods.

Top 10 Most Popular Handsets in December			
Device	Last Month's Rank	Available At	
1. RIM Blackberry Curve	1	AT&T, Verizon Wireless, Sprint Nextel, T-Mobile, others	

2. Apple iPhone	2	AT&T Mobility	
3. BlackBerry Storm	3	Verizon Wireless	
4. LG Voyager	6	Verizon Wireless	
5. LG Dare	4	Verizon Wireless	
6. BlackBerry Bold	5	AT&T Mobility	
7. Samsung Rant	Not ranked	Sprint Nextel	
8. Samsung Behold	9	T-Mobile	
9. Samsung Instinct	10	Sprint Nextel	

10. LG Env2	8	Verizon Wireless	
Source: Rankings provided by AvianResearch L.L.C.			

Article updated Feb. 24 to correct inaccurate information, and to clarify the nature of the information provided.



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this month was
Samsung's
Rant model,
which is
available at
Sprint Nextel.

[Click here for November's list.](#)

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